

REMARKS/ARGUMENTS

Claims 1-12, 14-16, and 18-20 are currently pending in the present application. Claims 1-7, 14-16, 18 and 19 are allowed. Claims 10-12 and 20 are objected to. It is assumed that the Examiner considers these claims to be allowable if rewritten in proper independent form. Claims 8 and 9 are rejected. Claim 8 has been amended.

Claim Rejections – 35 USC § 103

Claim 8 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Kraszewski et al (U.S. 5,554,935) in view of Herrmann et al. (U.S. 6,837,122).

In making the rejection, the Examiner admits that Kraszewski et al. does not disclose a second microwave resonator with measuring and evaluation electronics for determining the mass of the units of active substances. It is the Examiner's position that Herrmann et al. discloses a second microwave resonator and that it would be obvious to a person of ordinary skill in the art to provide Kraszewski with a second microwave resonator as disclosed by Herrmann. Reconsideration of this rejection is respectfully requested.

Claim 8 as currently amended calls for an apparatus for determining the mass of portioned units of active substances which includes a first microwave resonator with measuring and evaluation electronics for determining the mass of the units before the filling of the units with the active substance and a second microwave resonator arranged to contain a microwave field generated by a microwave generator. The apparatus also includes a device for guiding the units of active substances through the microwave resonator and measuring and evaluation electronics for determining the mass. A device is provided for removing individual units of the active substances having a mass outside a predetermined range. In essence, the claim sets forth that there is a first microwave resonator for determining the mass of the units before they

are filled with the active substance and a second microwave resonator which determines the mass of the units after they are filled.

It is well established that for a *prima facie* case of obviousness, a combination of references must meet each and every limitation of the claims. It is submitted that in this case, the combination of Kraszewski et al. and Herrmann fails to meet this criteria. Even if the Kraszewski et al. and Herrmann et al. references could be combined in some manner, any such combination would not result in all the claim limitations.

Referring first to the Kraszewski et al. patent, it is noted that the patent is not concerned with portioned units of active substances. Further, it is not concerned with the filling of units with an active substance. Kraszewski et al relates to dielectric objects. As mentioned above, the Examiner admits that Kraszewski does not disclose a second microwave resonator.

Referring to the Herrmann et al. patent, such patent relates to the measurement of moisture and mass of a material running through a spinning preparation machine. The Herrmann patent does not disclose any type of units filled with an active substance nor does it disclose any type of units which should be "removed" if they have a mass outside a predetermined range. The determination of a mass before the filling of a can with fibre slivers for further processing is entirely different than the concept set forth in the claims which involves the determination of the mass of a unit before filling the unit with an active substance. The can 14 in the Herrmann patent serves merely as a collection device. This is in distinction to the claim subject matter which is directed to units of active substance before and after the units are filled with the active substance.

Neither the Kraszewski et al. patent nor the Herrmann et al. patent discloses portioned units of an active substance. Further, neither patent discloses or suggests the use of a first microwave resonator for determining the mass of a unit before it is filled with an active substance and the use of a second microwave resonator for determining the mass after it is filled as claimed. As the proposed combination of Kraszewski et al and Herrmann et al. does not meet all the limitations of the claim, claim 8 is patentable.

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Claim 9 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Kraszewski et al. in view of Herrmann et al. as applied in claim 8 and further in view of Mayer et al. (U.S. 5,602,485). Mayer has been cited by the Examiner as disclosing units of active substances being conveyed by an air stream for purposes of processing. However, Mayer does not disclose the use of the first and second resonators as set forth in the claim and accordingly, does not supply any disclosure to overcome the deficiency of the combination of the Kraszewski patent and Herrmann et al patent as discussed above. Accordingly, claim 9 is considered patentable for the reasons advanced in connection with claim 8.

Allowed Claims

The Examiner indicated that claims 1-7, 14-16, 18 and 19 are allowed. Allowance of these claims is noted with appreciation. Additionally, claims 10-12 and 20 were objected to. It is assumed that such claims are allowable if rewritten in proper independent form. However as their parent claim 8 is deemed patentable for the reasons set forth above, such claims have not been rewritten.

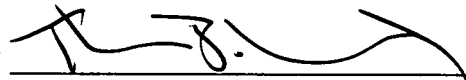
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Conclusion

In view of the above amendments and remarks, it is respectfully submitted that all the claims in the case patentably define over the art of record, taken alone or in any possible combination. Favorable consideration of all the claims now in the case is earnestly solicited.

Respectfully submitted,

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